

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SHRED WORKS, INC.

Employer,

and

EDGAR BAUTISTA

Petitioner,

and

TEAMSTERS LOCAL 70,

Union.

Case No. 32-RD-262012

STATEMENT OF TEAMSTERS LOCAL 70
IN OPPOSITION TO THE EMPLOYER'S REQUEST FOR REVIEW

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I. INTRODUCTION

Shred Works, Inc. (“Shred Works” or the “Employer”), has filed a Request for Review of Region 32’s decision to block the election petition in 32-RD-262012. The Request for Review is based on inflammatory and defamatory false statements. Shred Works makes false accusation after false accusation without providing a shred of evidence or specificity. Stripping away the baseless accusations and offensive innuendo, there is nothing left.

At bottom, Shred Works claims that the pending unfair practice charge is meritless and, therefore, should not serve to block the petition. Tellingly, Shred Works does not actually address the allegations in the pending charge. The Union has presented competent and reliable evidence in support of its pending charge demonstrating Shred Works’ bad faith bargaining over layoffs and the targeted discriminatory layoffs of Union supporters. The unfair practice charge being investigated is serious and bears directly on whether there can be a free and fair election. Shred Works’ claim that the charge is meritless should be given no weight given the demonstrably false statements in its Request for Review.

Region 32 is charged with investigating this charge and has reasonably exercised its discretion to block the pending petition, as Teamsters Local 70 has produced evidence that Shred Works has committed a sufficiently serious unfair labor practice and, thus, the charge should be resolved before an election proceeds. The Board should defer to Region 32’s exercise of discretion. The Employer’s patently false and conspiracy-theory laced Request for Review should not be acted upon.

II. STATEMENT OF FACTS AND BACKGROUND

The employees of Shred Works voted to be represented by Teamsters Local 70 (the “Union”) on June 10, 2019 and the certification of representative issued on June 18, 2019. (32-RC-241675.) Following certification, Shred Works dragged out contract negotiations and engaged in bad faith bargaining. Leading up to the end of the certification year, it committed a series of unfair labor practices.

Shred Works unilaterally changed employees’ schedules and policies, including imposing a daily call-in policy. Shred Works discriminatorily terminated the Union steward on May 8, 2020, purportedly based on the unilaterally implemented policy. The termination was plainly pretextual.

On May 15, 2020, the Union filed an unfair practice charge (Charge No. 32-CA-260517). Region 32 investigated the charge, found merit and entered into an informal settlement agreement with Shred Works on July 13, 2020. This settlement agreement required Shred Works to reinstate the Union steward, provide backpay, rescind its daily call-in policy and post a 60-day notice.

On or about June 22, 2020, during the period of remedial posting, the instant decertification petition was filed by employee Edgar Bautista who is closely aligned with management and acts as a supervisor. Mr. Bautista represented to other employees that he was their supervisor, informed them of work expectations, issued warnings and threatened discipline. Mr. Bautista could change other drivers' assignments. He informed other drivers of raises at the end of 2019 and told them that he had arranged them. The Union filed an unfair practice charge alleging supervisory taint of the decertification petition (Charge No. 32-CA-262360), requested to block the decertification petition and submitted an offer of proof in support of the request. The Union provided evidence in support of the charge to the Region. The Union's charge was filed in good faith and was based on evidence and good faith belief that Mr. Bautista was acting as a supervisor or agent of management. The Region investigated this charge and in September 2020, informed the Union that it was going to dismiss the charge absent withdrawal. The Union withdrew the charge on or about September 9, 2020.

In August 2020, Shred Works informed the Union that it was imposing layoffs. Shred Works engaged in bad faith bargaining over the effects of the layoffs, including regressive bargaining and reneging on their agreement to layoff in seniority order, refusing to bargain in person or virtually or by phone, imposing unilateral changes during bargaining, prematurely declaring impasse and imposing prior to impasse, and retaliating against Union supporters. Shred Works laid off employees out of seniority order, targeted the known Union supporters, and then hired a brand new employee. On August 26, 2020, the Union filed an unfair practice charge protesting the retaliatory layoffs and bad faith bargaining. (32-CA-265362.) The Union provided extensive evidence in support of this charge and filed a request that this charge block the petition. Region 32 exercised its discretion to grant this request. Region 32 is investigating the pending unfair practice charge.

III. ARGUMENT

Shred Works' Request for Review of the Regional Director's decision to block this petition pending resolution of the pending unfair practice charge is shot through with false, baseless and vague allegations aimed at smearing the reputation of Teamsters Local 70 and Region 32 of the NLRB.

Shred Works begins its Request for Review with the following inflammatory false statement: "We understand that the NLRB and the Union have a relationship that we will never achieve however, that should not preclude our company and especially our employees from having their rights taken away." The Union and the NLRB do not have a "relationship" apart from the relationship between a complainant and the administrative agency charged with investigating their claim. To the extent that Shred Works is attempting to imply that there is some improper or inappropriate relationship between the Union and the NLRB, that is a false accusation. Shred Works provides no evidence to support such an outlandish claim and there is none. The accusation should both be dismissed out of hand and tinge how the Board considers the entire Request for Review.

Shred Works states that the second charge filed by Teamsters Local 70, alleging supervisory taint (32-CA-262360) "was solely used as a tactic to delay the legal rights of the Shred Works employees. *There was no evidence ever given* and eventually after several months the case was withdrawn *as there was zero evidence* to support the claims of the Union." Request for Review, (emphasis added.) Those are demonstrably false statements. The Union submitted evidence to Region 32 in support of its charge. The Board can review that evidence. Perhaps Shred Works' false claims stem from a misunderstanding of the Board process and the fact that the Board keeps the evidence and witness affidavits that it collects confidential. Whether the false statements stem from ignorance or malice, they nonetheless demonstrate the untrustworthiness of the Employer's submission.

Shred Works alleges that the “union has also in writing admitted that they falsified parts of the original charge.” That is false. Significantly, Shred Works does not identify what it claims was a false statement or provide any proof to support its claim.

Shred Works also falsely states that “there were never any Unfair Labor Charges brought forward until the Union was served with the Decertification Petition.” That is false. The Union filed Charge No. 32-CA-260517 on May 15, 2020, over a month before the decertification petition was filed or served in June 2020.

In addition to the demonstrably false statements, Shred Works baselessly accuses the Union of acting in bad faith. That is false. These charges allege violations of the Act and have all been brought in good faith and supported by evidence. Region 32’s records will demonstrate that each of the three unfair labor practice charges allege violations of the Act and the Union has supported each charge with evidence.

Shred Works accuses Charging Party of “leveraging its knowledge of loopholes in the law . . . to delay.” The duty to bargain in good faith and not to retaliate against employees for engaging in protected concerted activity are not “loopholes.” The Union has in good faith filed three unfair practice charges and has supported each with evidence. Region 32 found merit to one, which Shred Works has omitted mention entirely of in its Request for Review. Shred Works’ unlawful actions resulted in a settlement agreement with the Board. Region 32 did not proceed on one charge and it is investigating the third charge.

Shred Works accuses the Charging Party of using a “loophole” by alleging in the most recent charge that the complained-of conduct occurred “within the last six months.” To the contrary, that is standard practice to demonstrate that the charge is not time-barred by the applicable statute of limitations. The Charging Party in its evidence submitted in support of the charge has provided the relevant dates, which all occurred within six months of the charge file date.

Curiously, in its Request for Review, Shred Works alleges that “[a] majority of Shred Works’ employees petitioned to decertify the Union” and “there was a majority in favor of decertification over 3 months ago.” The signatures collected on any petition are kept confidential by the Board. These statements imply Shred Works’ knowledge of who signed the decertification petition, which tends to indicate that Shred Works was involved in the petition or surveilling or polling employees regarding union support.

Shred Works’ Request for Review includes vague unsubstantiated hearsay statements aimed at harming the Union’s reputation. The only truth revealed is Shred Works’ anti-Union animus. In sum, Shred Works’ Request for Review is premised on false statements and merely serves to demonstrate the Employer’s bad faith.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Board deny the Employer’s Request for Review in this matter.

Dated: October 9, 2020

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STATEMENT OF SERVICE

I hereby certify and declare under penalty of perjury, under the laws of the United States of America and the State of California, that a copy of STATEMENT OF PETITIONER TEAMSTERS LOCAL 70 IN OPPOSITION TO THE EMPLOYER'S REQUEST FOR REVIEW was served today, October 9, 2020, on the following parties or persons via electronic service:

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